THE MOTOR SPIRIT (TAXATION ON SALES) ACT, 1949.

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MYSORE ACT No. XLIX OF 1949.

THE MOTOR SPIRIT (TAXATION ON SALES) ACT, 1949.

(AS AMENDED BY ACTS XI OF 1950 AND 5 OF 1953.)

(Received the assent of His Highness the Maharaja on the 14th day of July 1949.)

An Act to provide for the levy of a tax on retail sales of motor spirit in [1][the State of Mysore except Bellary District.]

WHEREAS it is expedient to provide for the levy of a tax on retail sales of motor spirit in [1][the State of Mysore except Bellary District] ;

It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Motor Spirit (Taxation on Sales) Act, 1949.

(2) It extends to the [1][whole of the State of Mysore except Bellary District].

(3) This section shall come into force at once, and the rest of this Act shall come into force on such date as the Government may, by notification in the *Mysore Gazette*, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*a*) "importer" means any person who imports motor spirit into [1][the State of Mysore except Bellary District];

(*b*) "motor spirit" means any substance which by itself or in admixture with other substances is ordinarily used directly or indirectly to provide reasonably efficient fuel for automotive or stationary internal combustion engines, and includes petrol, diesel oil and other internal combustion oils, but does not include kerosene, furnace oil, coal or charcoal ;

(*c*) "petrol" means dangerous petroleum as defined in the Mysore Petroleum Act, 1942, and includes a mixture of alcohol, as defined in the Mysore Power Alcohol Act, 1939, and petrol ;

(*d*) "prescribed" means prescribed by rules made under this Act ;

1. See the Mysore Adaptation of Laws Order, 1953.

(*e*) "retail dealer" means any person who sells or keeps for sale motor spirit for the purpose of consumption by the person by whom or on whose behalf it is or may be purchased;

(*f*) "retail sale" means a sale of motor spirit by a retail dealer for the purpose of consumption by the person by whom or on whose behalf it is or may be purchased, and the expression "sell in retail" shall be construed accordingly; and

(*g*) "wholesale dealer" means any person who sells motor spirit, or keeps motor spirit for sale, to dealers in such spirit, for the purpose of trade.

Explanation.—A sale of motor spirit by a co-operative society, or a club, a firm or any association to one of its members for consumption is a retail sale within the meaning of clause (*f*).

Payment of tax.

3. (1) Subject to the provisions of this Act, there shall be levied on all retail sales of motor spirit, effected after the commencement of this Act, a tax—

in the case of petrol—at the rate of [1][six annas per gallon], and

in the case of motor spirit other than petrol—at the rate of one anna and six pies per gallon;

and such tax shall be payable by the person effecting the sale:

Provided that the Government may from time to time by notification fix any other rate at which the tax shall be payable, not exceeding the rates specified above.

(2) Where any retail dealers obtain their supplies of motor spirit from an importer or a wholesale dealer, it shall be open to the Government, by agreement with the importer or wholesale dealer, to levy from him in advance the tax which may be payable by the retail dealers under sub-section (1) on the sale by them of the motor spirit and the provisions of this Act relating to the assessment and recovery of tax shall, subject to such conditions as may be agreed upon, apply to the importer or wholesale dealer accordingly.

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1. Substituted by Act 5 of 1953.

(3) No tax shall be levied under this Act on the sale of any motor spirit in respect of which such tax has already been paid.

Power of Government to notify exemptions and reductions of tax.

[1][**3-A.** The State Government may, by notification in the *Mysore Gazette*, make an exemption or reduction in respect of any tax payable under this Act,—

(1) on the sale of any specified class of motor spirit, or

(2) by any specified person or class of persons.]

Registration of importers and dealers.

4. (1) No person shall, after the commencement of this Act, carry on business in motor spirit as an importer or as a wholesale or retail dealer at any place in [2][the State of Mysore except Bellary District] unless he has been registered as such under this Act:

Provided that persons carrying on business at the commencement of this Act shall be allowed two months from such commencement to get themselves registered under this Act.

Explanation.—Where a person has more than one place of business, whether in the same town or village or in different towns and villages, he shall get himself registered separately in respect of each such place of business.

(2) (*a*) No importer or wholesale dealer shall, unless also registered as a retail dealer under this Act, sell motor spirit for consumption or sale in [2][the State of Mysore except Bellary District] to any person other than an importer or a wholesale dealer or a retail dealer, registered as such under this Act.

(*b*) No retail dealer shall use or transfer for consumption any motor spirit stocked by him without its being included in his accounts and in the next return of retail sales submitted by him under section 5 (*b*).

(3) Application for registration as an importer or a wholesale dealer or a retail dealer under this Act shall be made in such form and to such authority as may be prescribed.

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1. Inserted by Act XI of 1950.
2. See the Mysore Adaptation of Laws Order, 1953.

(4) Registration may be made subject to such conditions, if any, as may be prescribed including in the case of an applicant for registration as a retail dealer, the making of such deposit or the furnishing of such security as the registering authority may consider necessary to ensure the due payment of the tax which may from time to time be payable by him.

(5) No person including a company or firm registered as an importer, a wholesale dealer or a retail dealer, shall carry on the business of public transport requiring the use of motor spirit.

(6) Any registration under sub-section (1) may be suspended or cancelled by such authority, for such reasons, and in such manner, as may be prescribed.

Obligation of retail dealers to keep books of account and submit returns.

5. Every retail dealer in motor spirit shall in respect of each place where he carries on business—

(*a*) keep books of account in the prescribed form; and

(*b*) submit every month to the Sales Tax Officer and to such other officers as may be prescribed a return in the prescribed form and before the prescribed date, showing—

(i) the quantity of motor spirit received by him during the preceding month;

(ii) the quantity sold by him during such month; and

(iii) such other particulars as may be prescribed.

Receipt for payment of tax to be furnished along with return.

6. Along with the return referred to in clause (*b*) of section 5, the retail dealer shall furnish a receipt from a Government treasury for the amount of the tax due in respect of the motor spirit sold by him in retail during the preceding month, according to the return.

Determination of tax by the Sales Tax Officer in certain cases and recovery thereof.

7. (1) If no return is submitted by a retail dealer under clause (*b*) of section 5 in respect of any month before the date prescribed in that behalf, or if the return is submitted without a receipt for the full amount of the tax due as required by section 6, or if the return submitted appears to the Sales Tax Officer to be incorrect or incomplete, the Sales Tax Officer shall, after making such inquiry as he considers necessary, determine the

amount of the tax due from such retail dealer in respect of such month and the amount so determined less the sum, if any, already paid by him shall be paid by the retail dealer into a Government treasury within fourteen days after demand is made therefor:

Provided that before taking action under this sub-section, the retail dealer shall be given a reasonable opportunity of proving the correctness and completeness of his return.

(2) In default of payment within the period aforesaid the amount of tax due shall be recovered from the person from whom the tax is due as if it were an arrear of land revenue.

Obligation of importers and wholesale dealers to keep books of account and submit returns.

8. Every importer or wholesale dealer, shall—

(*a*) keep books of accounts in the prescribed form; and

(*b*) submit every month to the Sales Tax Officer and to such other officers as may be prescribed a return in the prescribed form and before the prescribed date, showing—

(i) the quantity of motor spirit received by him in the preceding month,

(ii) the quantities of motor spirit supplied by him during such month to other importers, wholesale dealers or retail dealers, specifying the name and address of each importer, wholesale dealer or retail dealer, the quantities supplied to him, and the dates on which the supplies were made, and

(iii) such other particulars as may be prescribed.

Powers of entry and inspection

9. (1) All accounts and vouchers relating to stocks, purchases, sales and deliveries of motor spirit kept by importers, wholesale dealers and retail dealers and the stocks of motor spirit with them shall be open to inspection by such officers as the Government may authorise in that behalf.

(2) Any such officer shall have power to enter and search any building, vessel, vehicle or place where any importer, wholesale dealer or retail dealer carries on business or keeps any stock of motor spirit.

10. Any person who—

(*a*) carries on business in motor spirit as an importer, a wholesale dealer or a retail dealer at any place without getting himself registered as required by sub-section (1) of section 4 or when his registration in respect of such place is not in force, or

(*b*) fails to keep books of account as required by clause (*a*) of section 5 or of section 8, or

(*c*) fails to submit any return as required by clause (*b*) of section 5 or of section 8 on or before the prescribed date, or submits an incorrect or incomplete return, or fails to submit a receipt for the full amount of the tax due as required by section 6, or

(*d*) fails to pay within the time allowed, any tax demanded from him under section 7, sub-section (1), or

(*e*) fraudulently evades the payment of any tax due under this Act, or

(*f*) acts in contravention of any of the provisions of this Act,

shall on conviction by a Magistrate of the first class, be liable to a fine which may extend to one thousand rupees and in the case of a conviction under clause (*d*) or (*e*), the Magistrate shall specify in his judgment the amount of the tax which the person convicted has failed or evaded to pay and the amount so specified shall be recoverable as if it were a fine.

Motor spirit liable to confiscation in certain cases.

11. The motor spirit in respect of which an offence against this Act is committed and any receptacle in which such spirit is contained shall be liable to confiscation.

Confiscation how ordered.

12. (1) When in any case tried by a Magistrate, the Magistrate decides that anything is liable to confiscation under section 11, he may, after hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim, order confiscation or may give the owner an option to pay such fine as the Magistrate deems fit in lieu of confiscation.

(2) When an offence against this Act has been committed but the offender is not known, or cannot be found, or when anything liable to confiscation under this Act and not in the possession of any person cannot be

satisfactorily accounted for, the case shall be inquired into and determined by the prescribed officer who may order such confiscation :

Provided that no such order shall be made until the expiration of one month from the date of seizure of the things intended to be confiscated or without hearing the persons, if any, claiming any right thereto, and the evidence, if any, which they produce in support of their claims.

Issue of warrants for arrest.

13. (1) Any officer of the Government specially empowered by them in this behalf may issue a warrant for the arrest of any person whom he has reason to believe to have committed an offence against this Act.

(2) All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1904, by a police officer, or if the officer issuing the warrant deems fit, by any other person.

Power of entry and search without warrant.

14. Any officer of the Government specially empowered by them in this behalf may—

(*a*) enter and search any building, vessel, vehicle or place in which he has reason to believe that any motor spirit liable to confiscation under this Act is kept or concealed ;

(*b*) seize any motor spirit and any receptacle which he has reason to believe to be liable to confiscation under this Act ; and

(*c*) detain, search and arrest any person whom he has reason to believe to be guilty of any offence against this Act.

Procedure for arrest without warrant.

15. The provisions of section 61 of the Code of Criminal Procedure, 1904, shall apply to all arrests without warrant made under section 14.

Offences to be reported, etc.

16. Every officer employed by the Government or by any local body shall be bound to give immediate information at the nearest police station, or if so required by any general or special order issued by the Government to the nearest Excise Officer of rank not below that of Assistant Inspector, of all breaches of any of the provisions of this Act which may come to his knowledge; and all such

officers shall be bound to take all reasonable measures in their power to prevent the commission of any such breaches which they may know or have reason to believe are about or likely to be committed.

Power of investigation.

17. (1) Every officer of the Sales Tax, Excise, Police or Land Revenue Departments not below such rank as may be prescribed, shall within the area for which he is appointed, have power to investigate all offences against this Act.

(2) Every such officer shall in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1904, upon an officer in charge of a police station for the investigation of a cognizable offence:

Provided that if such officer is of opinion that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of an accused to a Magistrate, or that the person arrested may be discharged with a warning such officer shall release him on his executing a bond, with or without sureties, to appear if and when so required before a Magistrate and shall make a full report of the case to the Sales Tax Officer.

Offences to be bailable.

18. (1) All offences against this Act shall be bailable.

(2) Any officer empowered under section 17 shall have power to grant bail in accordance with the provisions of the Code of Criminal Procedure, 1904, to any person arrested without warrant for an offence against this Act.

Procedure on seizure.

19. When anything has been seized by an officer exercising powers under section 17, such officer, after such inquiry as he considers necessary—

(*a*) if it appears that such thing is required as evidence in the case of any person arrested, shall forward the thing to the Magistrate to whom such person is forwarded or for his appearance before whom bail has been taken;

(*b*) if it appears that such thing is liable to confiscation but is not required as evidence as aforesaid, shall send the thing with a report of the particulars of the seizure to the prescribed authority: and

(*c*) if no offence appears to have been committed, shall return the thing to the person from whose possession it was taken and shall report to the prescribed authority accordingly.

Power to compound offences.

20. (1) The prescribed authority may accept from any person who has committed or is reasonably suspected of having committed an offence against this Act, by way of composition of such offence—

(*a*) where the offence consists of a sale of motor spirit in contravention of this Act or of the evasion of any tax payable under this Act, in addition to the tax payable by him under section 3, a sum of money not exceeding five hundred rupees or double the amount of the tax payable, whichever is greater; and

(*b*) in other cases, a sum of money not exceeding five hundred rupees.

(2) On the payment of such sum of money and the tax, if any, payable under section 3, to the prescribed authority, the accused person shall be discharged, the property seized, if any, shall be released and no further proceedings shall be taken against such person or property in respect of such offence.

Cognizance of offences.

21. (1) No Magistrate shall take cognizance of any offence against this Act—

(i) except upon the complaint or report of the Sales Tax Officer or other prescribed authority, or

(ii) except upon his own knowledge or suspicion.

(2) Except with the sanction of the Government, no Magistrate shall take cognizance of any offence against this Act, unless the prosecution is instituted within six months from the date on which the offence is alleged to have been committed:

Provided that nothing contained in this sub-section shall apply to any case governed by section 23.

Bar of certain proceedings.

22. (1) No suit, prosecution or other proceeding shall lie against any officer or servant of the Government, for any act done or purporting to be done under this Act, without the previous sanction of the Government.

(2) No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding, if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

Limitation for certain suits and prosecutions.

23. No suit shall be instituted against the Government and no suit, prosecution or other proceeding shall be instituted against any officer or servant of the Government in respect of any act done or purporting to be done under this Act, unless the suit, prosecution or other proceeding is instituted within six months from the date of the act complained of.

Appeal.

24. (1) Any person aggrieved by any order passed under this Act, not being an order passed by any Court or Magistrate, may appeal—

(*a*) in case such order is passed by a Sales Tax Officer to the Commissioner of Sales Tax, and

(*b*) in any other case, to the Sales Tax Officer.

(2) The appellate authority may, after giving the appellant an opportunity of being heard, pass such orders on the appeal as such authority thinks fit.

(3) Every order passed in appeal under this section shall, subject to the powers of revision conferred by section 25, be final.

Revision.

25. The Government may, at any time, call for and examine the record of any order passed by, or any proceedings recorded by, any officer or person under this Act for the purpose of satisfying itself as to the legality or propriety of such order, or as to the regularity of such proceedings, and may pass such order in reference thereto as it thinks fit.

Nothing contained in this section shall apply to the orders or proceedings of any Court or Magistrate.

Power to make rules.

26. (1) The Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) all matters expressly required or allowed by this Act to be prescribed ;

(*b*) the regulation of the sale of motor spirit for the purpose of enforcing the provisions of this Act;

(*c*) the duties and powers of inspecting and other officers appointed or authorised to exercise any powers under this Act, and the procedure to be followed by such officers;

(*d*) the form in which and the time within which appeals under section 24 may be preferred; and

(*e*) any other matter for which there is no provision or no sufficient provision in this Act and for which provision is, in the opinion of the Government, necessary for giving effect to the purposes of this Act.

(3) In making a rule under sub-section (1) or sub-section (2) the Government may provide that a breach thereof shall be punishable with fine which may extend to one thousand rupees and, where the breach is a continuing one, with further fine which may extend to fifty rupees for every day after the first during which the breach continues.

(4) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of the rules being made after previous publication for a period of not less than four weeks.

Publication of rules and notifications.

27. All rules made and notifications issued under this Act shall be published in the *Mysore Gazette* and upon such publication, shall have effect as if enacted in this Act.

Power to remove difficulties.

28. If any difficulty arises in giving effect to the provisions of this Act or the rules made thereunder the Government may, as occasion may arise by order, do anything which appears to them necessary for the purpose of removing the difficulty.

Amendment of section 4, Act XLVI of 1948.

29. In section 4 of the Mysore Sales Tax Act, 1948, after the words "sale of", the words and figures "motor spirit as defined in the Motor Spirit (Taxation on Sales) Act, 1949, and" shall be inserted.

Repeal of Act XX of 1940.

30. The Mysore Sales of Motor Spirit Taxation Act, 1940, is hereby repealed.